CONFERENCE OF THE COMMITTEE ON DISARMAMENT

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on Thursday, 9 July 1970, at 10.30 a.m.

Chairman: Mr. H. KHALLAF (United Arab Republic)

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1. The CHAIRMAN (United Arab Republic): I declare open the 477th plenary meeting of the Conference of the Committee on Disarmament.

2. Before giving the floor to the first speaker I have great pleasure in welcoming here today Mr. Mario Gibson Barbosa, the Minister of External Relations of Brazil. I am sure that I express the sentiments of all members of the Committee when I say how gratified we are to see him with us today.

3. Mr. GIBSON BARBOSA (Brazil): I am very grateful to you, Mr. Chairman, for your kind words of welcome, and through you I should like to greet the distinguished members of this Committee. It is indeed a great honour for me to be here today, for I have been associated with this Committee -- indirectly but in a very heartfelt manner -- since its very beginning, being then a member of the delegation of Brazil to the United Nations in New York. Brazil has had the honour of being one of the members of this Committee since its inception, and attaches great importance to its work. The members of the Committee will therefore appreciate how gratified I am to have this opportunity of addressing them today.

4. Twenty-five years ago our peoples, still overwhelmed by the memories of the economic depression of the 1930s and by the horrors of war, put their faith in the United Nations system of international co-operation for peace and economic development. Today this system, despite its weaknesses and partial failures, remains our main hope for the future. Its mechanisms may have inadequacies or shortcomings; on certain occasions adherence to commitments may have been less strict than desirable; even some basic purposes of the Charter have proved to be less precisely stated than would have been appropriate. However, time and experience have not undermined the value of the basic principles of the United Nations and only by constant rededication to them can peace and prosperity be achieved. We shall not attain the lofty aims of the Organization by putting such principles aside and reverting, whenever difficulties are encountered, to ad hoc or more primitive schemes. If we content ourselves with cease-fires or with ignoring conflicts instead of acting to settle them, if non-armament and standstill measures are permitted to become a substitute for actual disarmament, if we tolerate concepts of balances of power and the establishment of spheres of influence as valid means of preserving peace, or if we imagine that co-operation for economic and social development can be confined to little more than symbolic gestures of good will, then we shall jeopardize the security and prosperity of all.

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5. On the contrary, such aims can be attained only if we remain faithful to the basic concepts of the Charter. If any changes were to be considered they should be in line with the main characteristics of the system, namely, universality and collective security. They should reinforce its principles: the sovereign equality of States, non-interference in internal affairs, non-use of force in international relations and effective co-operation for the promotion of economic and social development.

6. All the main organs of the United Nations are about to evaluate the results achieved in the last twenty-five years and to ponder the prospects for future action. The Economic and Social Council is now holding a session, in this same building, which is being attended by several Ministers of State. The issue is the main strategy for a Development Decade. Actually there is a close relationship between the work done in the Economic and Social Council and the task we perform here. In the Conference of the Committee on Disarmament we face a substantially similar challenge. Naturally, planning for the future in this Conference necessarily requires a different method. However, this Conference is also bound to take stock and examine prospects. In fact, that corresponds to the wishes of the General Assembly, which at its last session proclaimed a Disarmament Decade.

7. Brazil considers that this Conference has an essential role to play in the system as a whole, since it constitutes a vital negotiating instance on matters related to the maintenance of peace and security. Its very creation was due not to a fortuitous combination of circumstances but to a deeply felt need to explore fully the path of multilateral negotiations on disarmament. Here, not only the members of the two main military alliances but also twelve other countries have an opportunity to recognize and act upon the chances offered by history to bring the forces of war under control.

8. Considerable conceptual progress has been achieved in the field of disarmament since the Second World War. Although man's sincere desire for peace is at least as old as his experience of war, never before has disarmament been the object of such systematic attention from all quarters. Suffice it to say that the San Francisco Charter does not list general and complete disarmament among the main purposes of the United Nations, although it refers to the matter in Articles 11, 26 and 47. However, since the adoption of resolution 1722 (XVI) general and complete disarmament has expressly become the ultimate goal. I consider that the inclusion of that goal

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as a main purpose of the United Nations is one of the most cogent changes that could be introduced into the Charter itself. The twenty-fifth anniversary of the United Nations provides an excellent opportunity to review this question and to evaluate the actual implementation of the principles for negotiations on disarmament contained in the joint statement issued by the United States and the Soviet Union on 20 September 1961 (ENDC/5). Such guidelines could form part of a new set of rules aimed at accelerating progress towards increased collective security and disarmament. That could contribute to preventing a loss of faith in multilateral negotiations, which tends to run parallel with the slow pace and meagre results that characterize such international discussions.

9. On the other hand, such a review and discussion of this matter could provide a profitable occasion on which to examine more closely the relationship between disarmament agreements and their possible effect on the international community, particularly on its less favoured members, the developing nations. There are, in this respect, three specific questions that deserve careful attention, in our opinion.

10. First, in any enunciation of principles a linkage has to be established in actual terms between the savings resulting from disarmament measures and the channelling of those savings to the promotion of the economic development of developing countries. In a time of extremely vast expenditure on sophisticated armaments and clearly diminishing funds for economic co-operation it is necessary to remember that even a small fraction of the resources frozen in the paraphernalia of thermonuclear arsenals could generate highly necessary investments for the improvement of the quality of life in countless countries, to the benefit of millions of human beings. I am sure that the graphic impact of statistical figures is not required to add substance to that statement.

11. Secondly, it must be emphatically said that disarmament agreements, while closing the door to the development of weapons of mass destruction, should not in any circumstances be permitted to have disruptive effects on the scientific, technological and economic future of developing nations.

12. Finally, in relation to a third point to be borne in mind when reviewing disarmament principles, I would draw another lesson from our recent experience. The scope of disarmament measures should be strictly confined to the specific field they are designed to cover. Circumstances may arise in which overlappings with unresolved juridical questions come into being. In such cases it is clear that every effort

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should be made to avoid indirect reflections upon parallel but unrelated questions and the appearance of undesirable prejudgements. Here, again, that could harm the interests of small and medium-sized Powers.

13. I have dwelt on questions of principle. I shall now turn to the specific questions that emerge as the main subject matters in disarmament negotiations.

14. The Government of Brazil has already stated that it is following with considerable hope the strategic arms limitation talks at present under way in Vienna. I can realize the complexity of such negotiations and therefore understand the requirements of patience and realism. At the same time, however, it must be made clear that the international community has a right to expect, even in the short term, that positive results will materialize from such talks. There is certainly not a single delegation around this table, or at the General Assembly for that matter, which does not assign the highest priority to nuclear disarmament. The atomic weapon is not just another weapon: we all know that. Given the quantities in which it is continuously being accumulated and the extremely sophisticated means of delivery that are already deployed, or that are in the process of development, it has become the first and main threat to the very survival of mankind. Even if it is possible to say today that the absolute danger of an all-out nuclear confrontation is highly improbable, no one can foresee the limits that technology can reach and, therefore, the duration of this period of strategic equilibrium. We are probably living at a time when the two most powerful nations of the world hold in their hands the invaluable historical opportunity of reversing the ominous trend of the arms race. This very Conference of the Committee on Disarmament has, in practical terms, suspended its consideration of nuclear disarmament while awaiting some evidence of progress from Vienna and Helsinki. But it cannot wait too long. The strategic arms limitation talks must signal the beginning of a new era in disarmament negotiations.

15. On the other hand, this Conference has continued to work on questions of great importance. The discussion on chemical and biological weapons stands out as the most significant issue under scrutiny here at present. Brazil supports the broadest possible scope for the prohibition of production and stockpiling of and research on chemical and biological weapons. That is in line with the long-standing position we have adopted in disarmament negotiations, namely, to seek agreements that have the widest effect on the curtailment of weapons of mass destruction. We already possess

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an appropriate international instrument to cover the use of such weapons, the 1925 Geneva Protocol (A/7575/Rev.1, annex VI). I am glad to announce that the President of Brazil has requested, and the Brazilian Congress has granted, the approval necessary for the ratification of the Geneva Protocol. That ratification will shortly be deposited and Brazil will thus become a party to the Protocol. Although the effectiveness of the 1925 Geneva Protocol has been proved under the most critical conditions, there is a clear need to go one step further. This Conference is making a valuable effort to examine the difficult technical problems arising in relation to the control provisions of a new agreement or agreements. We hope that that analysis will quickly lead to concrete results, even if those results fall short of the comprehensive prohibition that would be ideally desirable.

16. Last year and at its present session this Committee has also given considerable attention to the negotiation of a treaty for non-armament of the sea-bed and the ocean floor, which could become a limited but also positive step in the accomplishment of the task entrusted to this Conference. The detailed views of the Brazilian Government on this issue were clearly stated at the meeting of 25 June (CCD/PV.473, paras. 69 et seq.). We have consistently advocated the principle that the provisions of this new treaty should not by any means prejudge parallel questions which are still unresolved concerning the law of the sea. Unfortunately, we cannot consider that that principle has yet been applied. Furthermore, the lack of precision in the definition of the rights of coastal States, with a negative bearing on the system of verification, prevents the Brazilian Government from associating itself with the draft in its present form.

17. Although history can be recounted as a series of interludes between wars, I do not think that there has ever been a clearer conscience in the world that this process ought to be stopped. Never has it been so perfectly apparent that war can no longer be regarded as an instrument for settling international problems. I represent here a country that is proud of its peaceful traditions and has consistently repudiated the use of force in international relations. Brazil has settled even the most sensitive international questions it has had to face through the peaceful procedures of negotiation and arbitration. What is more, we have always refrained from any interference in the internal affairs of other countries. Violence can only generate tension and deprive the peoples of the world of the essential right to live and work in peace.

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18. It is the great mansion of peace we have now to strengthen by curbing the dreadful devices of war. We must carefully build stone upon stone, working in succession, generation after generation, for the attainment of that supreme goal. The stakes being much higher today, it is clearly our duty to exert a stronger effort and to dedicate ourselves totally to this cause.

19. The CHAIRMAN (United Arab Republic): I thank His Excellency, Foreign Minister Mario Gibson Barbosa, for his important and most interesting statement.

20. Mr. CASTANEDA (Mexico) (translation from Spanish): As I announced in my last statement (CCD/PV.476), today I shall make some concrete suggestions which, I believe, may improve the content of the draft treaty on the prohibition of the emplacement of nuclear weapons on the sea-bed and the ocean floor (CCD/269/Rev.2).

21. We have stressed in this and other forums the need to establish a close link between the prohibition of the arms race on the sea-bed and the ocean floor and the preservation of an international sub-marine zone exclusively for peaceful purposes. Like most countries, we believe that that area is the common patrimony of mankind. Consequently, the present treaty could not derogate from that principle, or detract from it or modify it. However, the treaty neither establishes nor even mentions any connexion between the two objectives, namely, the prevention of the arms race on the sea-bed and the ocean floor and the preservation for peaceful purposes of a zone situated beyond national jurisdictions that is the common patrimony of mankind.

22. We therefore believe that the preamble to the treaty should reflect our conviction that all military activity should be prohibited which is prejudicial to the principle that the international sub-marine zone, deemed to be part of the collective legacy of mankind, must be used for peaceful purposes only. Of course, that would not imply prejudging the special features of the regime that is to be established for the proper use of the resources of that zone. On that score, we share some of the ideas expressed by the representatives of Sweden and India, who, at earlier meetings, have emphasized that exploration and exploitation of this under-water area must be carried out for the benefit of mankind.

23. I shall now refer to articles I and II of the draft treaty. It is a sound principle of legal drafting that treaties should possess the greatest possible degree of autonomy. Every agreement should contain clear and precise juridical elements

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likely to make it self-explanatory and self-sufficient on perusal, thus obviating the need to refer to international instruments separate from the treaty. The draft treaty we are considering is far from fulfilling that requirement. It is true that at various drafting stages it has undergone changes, thanks to the amendments proposed by Argentina (A/C.1/997), which improve the text so far as its field of application is concerned. None the less, the initial conception and structure of the first draft submitted jointly by the co-Chairmen in October 1969 (CCD/269) basically remain.

24. Article I refers to two distinct geographical zones and subjects each to a different legal regime. But article I does not define their respective geographical limits; instead of that it contains reference to article II, which of itself somewhat complicates the problem. Nor does article II establish a delimitation of the two geographical zones: rather it refers in its turn to the 1958 Geneva Convention on the Territorial Sea and the Contiguous Zone[1/].

25. That is not all. Article II does not stop at mere reference to the Geneva Convention but, in order properly to define the geographical zone to which the treaty applies, it finds that it has to make another cross-reference, the third, to something else. But, paradoxically, that something else is none other than article I, which had previously referred the reader to article II. Article I, paragraph 1, states that the parties undertake not to emplant or emplace nuclear weapons "beyond the outer limits of a sea-bed zone as defined in article II ...". Article II in turn uses the words "the outer limit of the sea-bed zone referred to in article I ...". This looks like a vicious circle and is the most involved normative structure I have ever encountered in a treaty.

26. But the confusion does not end there. As I said, article I refers to two zones: one which is beyond a line twelve miles from the coast and to which the treaty applies — that is to say, in which the emplacement of weapons is forbidden -- and another which is within the twelve-mile limit, where in principle the treaty prohibitions do not apply. But article II refers only to "the sea-bed zone referred to in article I" without indicating which of the two zones is meant. One would think that it is easy to determine which is meant, but that is far from being the case. It would be logical if the zone which is to be defined were the same as the zone to which the treaty applies — i.e. the zone in which the treaty prohibits certain activities and which is beyond the outer limit of the twelve-mile wide zone. However, that is not the case. Article II states that "the outer limit of the sea-bed zone referred to in article I shall be coterminous with

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1/ United Nations Treaty Series, Vol. 516, pp. 205 et seq.

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the twelve-mile outer limit ..." of the contiguous zone contemplated by the Geneva Convention. That leads me to assume, although I am not completely certain, that article II refers to the zone on the land side, that is to say within the twelve-mile limit as measured from the coast. The back-reference in article II to that zone instead of to the other is inappropriate since, as I have said, the zone that has to be defined is the one to which the treaty applies — in other words, the one in which the treaty prescribes certain things — and not the zone in which the treaty in principle does not establish a prohibition.

27. The uncertainty and the confusion do not stop there either. Article III also includes a cross-reference to "the zone referred to in article I" without specifying which of the two zones is intended. However, to complicate matters even further, article III appears to make reference to the zone which is in the open sea -- i.e. beyond the twelve-mile limit — contrary to what is done in article II.

28. All this is far from constituting the best imaginable method of legal drafting. These various cross-references are not only confusing but also unnecessary. I have never understood — and in any event not been convinced by — the reasons why it was felt necessary to make reference to the contiguous zone provided for in the 1958 Convention on the Territorial Sea, which incidentally is in force only as between fewer than half of the countries members of the present international community. Originally, the only function of that reference was to allude to a twelve-mile zone without actually saying so. One gets the impression that there was a desire not to confess openly that what was meant was a twelve-mile zone. But that reason has disappeared. The present draft treaty clearly states that it is a twelve-mile zone. Why, then, is the Geneva Convention still invoked when it is the cause of all these complications?

29. That is all the more paradoxical since the authors of the draft have always insisted, and rightly, that the treaty should not affect either the positions or the rights of the parties deriving from the law of the sea — a provision which is enshrined in article IV of the draft treaty. In other words, the aim has been, quite correctly, to separate the regime of this treaty from the general regime of the law of the sea. It is therefore contradictory, quite apart from being highly confusing, to indicate by implication and cross-references that the zone alluded to in article I shall be coterminous with the twelve-mile outer limit of the contiguous zone contemplated in the Geneva Convention. Moreover, once it is expressly stated that that zone is twelve

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miles wide, nothing is gained, from the point of view of law, by then mentioning that it is coterminous with that contiguous zone. That is merely a complicated and unnecessary way of describing the twelve-mile zone.

30. Such drawbacks could be avoided by stating things clearly through the use of a simple and almost self-sufficient formula. Thus, paragraph 1 of article I might simply read:

> "The States parties to this treaty undertake not to emplant or emplace on the sea-bed and the ocean floor and in the subsoil thereof beyond a twelve-mile zone, measured in accordance with article II, any nuclear weapons ...".

Article II would then confine itself solely to stating how that zone was to be measured.

31. I now turn to paragraph 2 of article I. This paragraph gives rise to more than one doubt. In simple language, the paragraph means that the other States will not be able to emplant nuclear weapons within a twelve-mile zone along the shores of the coastal State without the consent of the latter. Stated in the terms of paragraph 2, the obligations of the treaty "shall not apply either to the coastal State or to the sea-bed beneath its territorial waters". In the first place, it seems to me that a State, on the one hand, and the sea-bed, on the other, are such different notions that it is hardly possible to say in the same sentence that an obligation is not applicable to either the one or the other. But apart from this defect of legal drafting, the problem arises of interpreting the meaning of this paragraph.

32. When one says that the obligations of the treaty shall not apply "to the coastal State or to the sea-bed beneath its territorial waters", two zones in which the obligations do not apply are indicated. In other words, the phrase "or the sea-bed beneath its territorial waters" necessarily means something different from the twelve-mile zone to which the first part of this paragraph refers. In accordance with the principle of effectiveness in the interpretation of treaties, of two possible interpretations the one which permits some meaning to be given to an expression or term must be chosen and the other interpretation -- that which would make the phrase or term meaningless and pointless -- must be discarded. If an expression or wording appears in a treaty, there must be some reason for its presence. The wording "or the sea-bed beneath its territorial waters" could not, then, be interpreted as a mere pointless and meaningless repetition of another concept which already appears in the same paragraph. If that wording was added, it must, as I say, mean something different from the twelve-mile zone contemplated in the same paragraph.

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33. In order to unravel the true meaning of this added expression we must consider all possible hypotheses. The sea-bed and the ocean floor beneath the territorial waters of the coastal State may be narrower than, equal to or wider than the twelve-mile zone within which, according to the first part of this provision, the treaty obligations do not apply. If the territorial waters above the sea-bed and the ocean floor are narrower than or equal to twelve miles, then the words at the end of the paragraph, namely "or the sea-bed beneath its territorial waters", are quite meaningless -- or, to put it differently, it would not be applicable inasmuch as the interests of the coastal State are already safeguarded by the first exception, namely, that of the twelve-mile zone. Consequently, if the words "or the sea-bed beneath its territorial waters" are to have some meaning of their own and not be a useless repetition of what has already been said, they must logically and necessarily relate to the third and last possible hypothesis: that the territorial waters are wider than the twelve-mile zone to which paragraph 1 of article I of the treaty refers, since only on the assumption that they are wider would they not already be included in the other exception designed to protect the rights of the coastal State.

34. This can take us very far. The words "or the sea-bed beneath its territorial waters" which appear at the end of paragraph 2 of article I, could be legally interpreted as authorizing a State to emplant or emplace weapons of any kind, nuclear or conventional, not only within the twelve-mile zone permitted by the treaty, but even within a considerably larger area, extending to as much as 200 miles -- if its territorial waters go that far -- since, as is well known, there is no agreement on the width of the territorial sea and there are of course diverse and often conflicting claims as regards the delimitation of such waters.

35. It would be extremely dangerous if a State, on the pretext of exercising acts of sovereignty within what it subjectively and unilaterally regards as its own territorial sea, were to wish unjustifiably to transfer the arms race to a zone of the sea-bed beyond twelve miles from the coast.

36. The concern we are expressing becomes even more pronounced when we carefully examine the content of article IV of the draft treaty. If we read both provisions together, we find that under article IV the treaty neither supports nor prejudices the position of any State with respect to the conventional law of the sea or with regard to any other question relating to rights or claims which States may assert over territorial waters, contiguous zones, or continental shelves. It is obvious that in

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such circumstances any State could render the treaty nugatory by wrongfully invalidating the extent of area over which the treaty operates. I am sure that this was not the intention of the two co-Chairmen.

37. The representative of the United Arab Republic -- you yourself, Mr. Chairman -- rightly pointed out at our meeting of 7 July (CCD/PV.476, para. 56) that this oft-mentioned clause, which had some meaning in the context of the original Argentine amendments, had lost it in the framework of the co-Chairmen's present draft.

38. Consequently, with reference to paragraph 2 of article I, we make two suggestions: first, that the words "or the sea-bed beneath its territorial waters" should be deleted; and, secondly that, in keeping with the wording used in the draft submitted to the Conference by the co-Chairmen in October 1969 (CCD/269/Rev.1), it should be stated that the undertakings of paragraph 1 of article I shall also apply within the twelve-mile zone. The word "within", which would make things somewhat clearer, has disappeared from the latest version of the treaty, that of 23 April (CCD/269/Rev.2).

39. I should now like to make a suggestion relating to the substance of the prohibition in article I. The commitment undertaken under that provision imposes on the contracting parties the obligation not to emplant or emplace on the sea-bed or the ocean floor within the limits indicated in the treaty nuclear weapons or any other types of weapons of mass destruction. While it is true that the latter expression -- weapons of mass destruction -- is in current use and has been given its naturalization papers in the special terminology of disarmament, its scope has not been precisely defined and it is undoubtedly open to misunderstanding. In order to avoid the generality of the term it would be useful to include a description, by way of example, of some of the weapons that have a destructive power of such a nature. Thus, in the prohibition specific mention might be made of chemical and biological weapons, which certainly fall within that category of armaments. Such a reference would help to define more strictly the ambit of the military prohibitions embodied in the treaty, apart from providing greater clarity as to the types of weapon which are to be excluded from the sea-bed.

40. I now turn to article III and to some of the suggestions submitted to this Conference for consideration. Only a few days ago the delegations of Brazil and Argentina made observations (CCD/PV.473, para. 69 et seq. and CCD/PV.475/Add.1, para. 8 et seq.) which we consider very interesting. Indeed, quite clearly the obligations and rights contained in the various paragraphs of article III deserve careful analysis, and certain concepts need to be rounded out, to prevent the

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observation and verification procedure from failing to fulfil the purpose for which it was intended.

41. With reference to paragraph 1, as the representative of Brazil pointed out on 25 June (CCD/PV.473, para. 80), the participation of the coastal State in the verification through observation is not laid down in precise terms. It is true that such verification may be limited to observation stricto sensu, but it is not difficult to imagine that it might go further if it is to be truly effective, and include a certain amount of investigation and exploration. In such cases, and for the purpose of not interfering unjustifiably with the legitimate maritime activities that the coastal State may engage in, it is right to provide it with a guarantee with respect to acts that go beyond simple observation, particularly in certain areas like the continental shelf of the coastal State, where the latter has obvious economic and security interests. Hence the need for the State concerned to be notified of the observations being conducted beyond twelve miles from its coasts in areas of specific interest to that State.

42. We agree with the delegation of Brazil in thinking that in paragraph 2 of article III the coastal State should be categorically given the right not only to be notified of the consultations and the measures of co-operation engaged in by the States situated in the region but also to participate in them. For that reason specific mention ought to be made of the competence of the State concerned to act on such matters not as a mere possibility but as an authentic right, so that the interests of that State may be sufficiently guaranteed in the inspection procedure conducted by other countries.

43. We believe too that the comments made by the representative of Argentina at the meeting of 3 July (CCD/PV.475/Add.1, paras.19-22) concerning "parties in the region" in which the activities are conducted are of special relevance to a clear definition of that expression which in its present wording is too ambiguous. If, as proposed by the representative of Argentina, the words "in particular the coastal State" (ibid., para. 24) were added, the rights of that State would be better protected. We therefore support his proposal.

44. On the other hand, we do not share the point of view of those delegations which would eliminate the notion of the freedom of the high seas from paragraph 1 of article III. Not only is that a concept which belongs to conventional law but it must be regarded as an integral part of international customary norms and hence of general international law. The freedom of the high seas is no longer a matter of controversy. What might be open to discussion is the precise delimitation of where the high seas

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begin — or, if you wish, where they end. However, in the context of this paragraph the aim is to prevent the observation conducted by States from infringing rights recognized by international law, including the freedom of the high seas. It is not a question of restricting or limiting the rights of the coastal State but rather of protecting and guaranteeing the freedoms enjoyed by all other States.

45. The representative of Argentina proposed an important amendment to paragraph 6 of article III (ibid., para. 29). Broadly speaking we support it but we have some doubts concerning the actual wording proposed. The situation is as follows. Paragraph 6 provides that the verification shall be conducted with due regard for "the sovereign or exclusive rights of a coastal State with respect to the natural resources of its continental shelf under international law". That terminology follows closely, though not exactly, the language of the 1958 Geneva Convention on the Continental Shelf[1/]. This Convention provides that the coastal State exercises sovereign rights over the continental shelf as regards the exploration and exploitation of the shelf's natural resources. In other words, the sovereign rights attributed to — or, if you wish, recognized to — the coastal State are limited by the objective of exploiting natural resources. The Geneva Convention, then, does not recognize to the coastal State general sovereignty over the continental shelf.

46. During the 1958 Geneva Conference attempts were made to obtain recognition of the full sovereignty of the coastal State over the shelf. Some may remember that it was Mexico which was the sponsor of a proposal to the Conference to recognize full sovereignty over the continental shelf to the coastal State. Our proposal was defeated, although it obtained a large number of votes. The thesis that was approved, whereby limited sovereign rights were recognized to the coastal State for the exploitation of resources, ultimately obtained an overwhelming majority of votes at the Conference. We abide by that decision and are fully convinced that at the present time the Geneva Convention reflects and expresses the existing rule of international law on the matter. For that reason we have no objection to make to the present paragraph 6 of article III.

47. However, we recognize, together with Mr. Ortiz de Rozas, that the Geneva Convention is in force only as between a small number of States — approximately one-third of the international community — and that the thesis it embodies is only one of the existing theses. But to agree that the Geneva Convention is not being universally applied is not the same thing as agreeing that any other of the theses being asserted at the present

1/ United Nations Treaty Series, vol. 499, pp. 331 et seq.

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time is the authentic expression of existing international law. The number of States calling for full sovereignty over the continental shelf is probably very small.

48. In the circumstances we have no objection to changing the present wording of paragraph 6. But the result of that change should be that the treaty in no way pronounces on this controversial question, that is, that it does not side with any of the various positions. Such a solution would be more in line with article IV of the treaty, which divorces, so to speak, the general questions of the law of the sea from the present treaty.

49. The amendment submitted by Argentina would have not that result but the other. If we omit from the present text the words "the natural resources of" as proposed by Argentina, the text would read: "... with due regard for the sovereign or exclusive rights of a coastal State with respect to its continental shelf under international law". That would imply the validation of one of the existing theses -- and certainly a thesis supported by a small minority -- namely that the coastal State exercises general sovereign rights over the shelf, i.e. rights not limited to the exploitation of resources. And that would be tantamount to recognizing, through this treaty -- or, I would venture to say, through the back door of this treaty — that the coastal State exercises sovereignty over the continental shelf.

50. For an amendment to paragraph 6 to be acceptable it would have to be more impartial. That which comes immediately to mind is the following: "with due regard for the rights of a coastal State with respect to its continental shelf under international law". In that formulation the type of rights exercised with respect to the continental shelf is not specified -- whether they are general sovereign rights or sovereign rights limited to the exploitation of resources. I should think that the co-Chairmen would have no objection to a wording such as the one I have indicated, but for my part I wonder whether such general terms would in fact be of greater value and usefulness than the present text.

51. The preceding remarks relate exclusively to the text of the treaty as it stands at present. However, certain matters are not touched on in the draft treaty and have not been adequately studied by this Conference. When we changed our original purpose, which had presupposed the prohibition of all types of weapons on the sea-bed and on the ocean floor, and when the treaty was limited to the exclusion of nuclear weapons from that zone of the sea, the attention of the Committee was diverted mainly to those aspects of the treaty which relate rather to verification of its implementation. As

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a result, it has not been sufficiently noticed that the emplacement of certain conventional weapons on the sea-bed and the ocean floor of a country in the proximity of the outer limit of the permitted twelve miles may seriously prejudice the security of that State. Since we are legislating for the purpose of excluding the arms race from the sea-bed and the ocean floor, it would seem desirable to establish a rule which would also prohibit the emplacement on any State's continental shelf of conventional weapons as well.

52. Various representatives have repeatedly referred to these questions and have indicated that they are anxious to include a rule that would protect their rights over the continental shelf. It is also true that in paragraph 6 of article III, on which we have already commented, these considerations are partly taken care of since the paragraph states that the verification to be conducted must show due regard for the sovereign rights of a coastal State in that sub-marine zone.

53. But mention has been made only of verification activities. Our concern goes further and relates mainly to the possible emplacement of conventional weapons — for instance, mines or guided missiles with non-nuclear warheads — on the continental shelf of a State, even beyond the limits of the twelve-mile sea-bed zone laid down in the treaty. Under the present terms of the treaty — under what is allowed by the treaty — a State would have the right to encircle another by the emplacement of conventional weapons on the continental shelf outside the maritime belt laid down in the treaty -- say, thirteen miles from the shores of the coastal State. It is technically easier to emplace non-nuclear devices of every kind on the continental shelf of another State than on the ocean floor since this plateau extends not too far below the surface of the sea over distances that in many cases are greater than twelve miles. The serious consequences for the security of a coastal State deriving from that situation are quite obvious.

54. Consequently, if the militarization of the entire sea-bed and ocean floor is not to be prohibited it would appear to be desirable at least to insert a rule prohibiting the use of the continental shelf of any State for military purposes. That would include, inter alia, the establishment of military bases, structures, installations, fortifications and other devices of important military value in this sub-marine zone. Of course, that does not mean that the prohibition includes those devices of a purely passive or indirect defensive character, such as means of communication, shipping and surveillance.

(Mr. Castañeda, Mexico)

55. The purpose of the observations I have made today is to ensure that the treaty will constitute a contribution, however, small to the limitation of armaments. It is also possible that with the inclusion of these formulas the contents of the treaty may be made more acceptable to the members of the international community.

56. Mr. KITTANI (Morocco) (translation from French): I am going to speak briefly about the new revised draft treaty on the sea-bed and the ocean floor. First, however, I should like in my turn to welcome to our midst Ambassador Petrov, the representative of Bulgaria, and Ambassador Tanaka, the representative of Japan. I also welcome the return to our midst of Ambassador Castañeda, the representative of Mexico, and Ambassador Erdembileg, the representative of Mongolia. I am happy too to address a special word of welcome to Mr. Mario Gibson Barbosa, Minister of External Affairs of Brazil, who is seated among us today.

57. My delegation is sincerely gratified by the fact that the Conference now has before it a revised draft treaty on the sea-bed and the ocean floor (CCD/269/Rev.2), which is indeed the fruit of a long common effort of negotiation and consultation and which essentially reflects the criteria formulated last year by a large number of delegations both in the Committee on Disarmament and at the twenty-fourth session of the United Nations General Assembly. In its present wording that draft treaty is also the result of sustained and careful work by our co-Chairmen, who deserve our fullest gratitude.

58. My delegation, which attaches great importance to the use of the sea-bed and the ocean floor exclusively for peaceful purposes as well as to the preservation of the rights and claims of my country concerning its territorial seas and continental shelf, can only welcome with interest the new wording of the joint draft treaty submitted by our co-Chairmen, particularly as the text takes considerable account of the proposals formulated by various delegations, including my own.

59. I need not recall here that the joint draft treaty prohibiting the emplacement of nuclear weapons and other weapons of mass destruction on the sea-bed and the ocean floor and in the subsoil thereof, constitutes, in our view, only one stage, whose importance is undeniable in so far as this instrument opens the way to the progressive but sure attainment of the complete demilitarization of the sea-bed and the ocean floor. That is why we deeply deplore the fact that the Swedish proposal (CCD/271) to state that efforts will be continued with a view to a more general demilitarization of the sea-bed and the ocean floor -- a proposal which still has our support -- has not found the place it deserves in the operative part of the present draft.

(Mr. Khattabi, Morocco)

60. On the other hand, my delegation is pleased to note that a considerable number of important modifications have been made in the revised draft treaty. Thus, we are happy to welcome the provisions contained in the new article IV. In this connexion, my delegation suggested on 23 October 1969 (CCD/PV.445, para. 169) that the provisions concerning the preservation of the rights of coastal States should be formulated in a separate article and that their position under international conventions now in force on the law of the sea should be respected. In the opinion of my delegation, the text which we are now negotiating cannot have any other objective than the prohibition of the emplacement of nuclear weapons and other weapons of mass destruction on the sea-bed and the ocean floor. In that respect my delegation has taken note of the statement made by Mr. Roshchin on 23 April during the presentation of the second revised draft treaty, in which he said in particular:

> "This treaty is not intended to settle numerous issues of maritime law, to confirm or annul obligations assumed by States under other international agreements, or to anticipate any future solutions in this field." (CCD/PV.467, para. 21)

We subscribe to that statement, which seems to us to make even clearer the objective of the provisions of article IV of the revised text.

61. We also approve of the modifications made to articles I and II of the draft treaty, which have made it possible to replace the idea of "the maximum contiguous zone provided for in the 1958 Geneva Convention" by the concept of a "sea-bed zone" and to mention explicitly in the treaty the width of the sea-bed zone beyond which the treaty applies. Those modifications, which originated in working paper A/C.1/997 submitted by the Argentine delegation to the First Committee of the United Nations General Assembly last year, is a source of satisfaction to my country, which is not yet a party to the 1958 Geneva Convention on the Territorial Sea and the Contiguous Zone[1].

62. As regards article III of the revised text, which incorporates a considerable number of the suggestions in the Canadian working paper (A/C.1/992 and CCD/270), I must say quite clearly that my delegation understands that the provisions in

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1/ United Nations Treaty Series, Vol. 516, pp. 205 et seq.

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paragraphs 2, 3 and 4 of this important article, which deals with verification and observance of the treaty, cannot prevent direct recourse to the Security Council to eliminate possible doubts concerning observance of the treaty, in case the consultation and co-operation envisaged in those paragraphs cannot, for one reason or another, be initiated between a State party and another State which is also a party to the treaty. In that connexion my delegation has taken note of the clarification given by both Mr. Roshchin (CCD/PV.467, para. 14) and Mr. Leonard (ibid., para. 33) concerning the right of each State party to the treaty to appeal directly to the Security Council in case the consultations provided for in article III to eliminate possible doubts cannot take place.

63. I should also like to emphasize the importance, on the one hand, of the provisions in paragraph 6 of article III designed to take account of "the sovereign and exclusive rights of a coastal State with respect to the natural resources of its continental shelf under international law" and, on the other hand, of the new article VIII inserted in the revised text, which takes into account the Mexican suggestion concerning nuclear-free zones (A/C.1/995).

64. That being said, I should like now to make two short comments on wording. The word "specifically" in paragraph 1 of article I in the revised text seems to me to be redundant; it would be preferable, therefore, to delete it and say simply "or any other facilities designed for storing...". My second comment concerns the word "reasonable" in paragraph 2 of article III, where we read: "If ... reasonable doubts remain ...". In my opinion that word is vague and undefinable and it would be more exact to say, for example, "justified doubts". Moreover, one might wonder whether doubts could ever be "reasonable".

65. Before concluding, I should like to say once again that Morocco, a country which has a coastline of more than 1,500 kilometres along the Atlantic and the Mediterranean, and which is resolved to exploit fully and peacefully the resources of its seas, attaches great importance to the speedy conclusion of a treaty excluding the sea-bed from the nuclear arms race, as a first step towards the more complete demilitarization of that environment, so necessary to the survival and well-being of humanity.

(Mr. Khattabi, Morocco)

66. An eminent Soviet scientist, the late Noraïr Sissakian, observed that it is in the oceans and seas

> "where the major part of the organic matter formed on earth is found. However, so far the biological and mineral resources of the oceans have only been sporadically exploited. It is only natural that the rapidly increasing population of the earth should want to use them to the fullest extent. This has now become possible thanks to the rapid progress of science and different technological developments."1/

67. That is why we express our hope for the rapid conclusion of a treaty which for the time being, certainly, will have only a preventive value -- but nevertheless an encouraging one. However, we must avoid at all costs the exploitation of the sea-bed in even the distant future for destructive purposes, because humanity will need to expend just as much effort and money for the exclusively peaceful exploitation of the sea-bed and the ocean floor.

68. Mr. AHMED (Pakistan): Before I begin my statement may I, on behalf of the Pakistan delegation, extend a warm welcome to His Excellency the Minister of External Affairs of Brazil, who has honoured us by his presence in the Committee today? I also take this opportunity to welcome the heads of delegations who have taken their seats for the first time during the current session of the Committee.

69. In my statement today I wish to offer the views of the Pakistan delegation on the second revised draft treaty on the prohibition of the emplacement of nuclear weapons and other weapons of mass destruction on the sea-bed and the ocean floor and in the subsoil thereof (CCD/279/Rev.2), presented by the co-Chairmen on 23 April for the consideration of the Committee. My delegation welcomes the submission of that draft and congratulates the co-Chairmen on their constructive approach and on the spirit of accommodation which they have shown in taking into account the views and suggestions offered in this Committee and during the twenty-fourth session of the General Assembly. A comparison with the first revised draft (CCD/269/Rev.1) shows that substantial progress has been made.

70. I shall refer briefly to the important changes in the text presented to us on 23 April. In its statement to the Committee on 23 October 1969 the Pakistan delegation expressed the view that the purpose of the treaty would be better served

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1/ The UNESCO Courrier, March 1965, p. 6.

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if the geographical area in which prohibition should apply were defined in clearer language (CCD/PV.445, para. 29). That position was subsequently reiterated by the delegation of Pakistan in the First Committee. A large number of delegations have expressed, both here and in the First Committee, similar views on this question. We are therefore happy to see that the amendments proposed by the delegation of Argentina in its working paper (A/C.1/997) have been incorporated in the second revised draft of the treaty, except for some editorial changes. I should like to take this opportunity to express the appreciation of the delegation of Pakistan to the delegation of Argentina for its initiative on this important issue.

71. We are also glad to note that the disclaimer clause contained in paragraph 2 of article II of the earlier text has now been amplified and incorporated as a new article, article IV, in the second revised draft. The addition of the new article VIII, as a result of the initiative of the Mexican delegation, is another positive element in the draft treaty. My delegation also expresses its satisfaction at the considerable improvements which have been made in article III, on the question of verification procedures. For that we have to thank the Canadian delegation as well as the co-Chairmen, who have accepted most of the contents of the Canadian working paper (A/C.1/992). We have, however, noted that the references to international procedures and to the good offices of the Secretary-General of the United Nations contained in paragraphs 3 and 5 of the Canadian working paper have been omitted from the text before us.

72. In my statement on 23 October 1969 I expressed the view that the principle of international responsibility for verification procedures should be recognized by an appropriate provision in the treaty (CCD/PV.445, para. 31). We would have been happy if such a provision had been incorporated in the second revised draft. In this connexion I should like to say that the Pakistan delegation visualizes a gradual evolution of the process of verification leading to the acceptance in the near future of reliable, independent and effective international arrangements for verification.

73. The Pakistan delegation believes that the sea-bed and the ocean floor, which form two-thirds of the surface of the earth, should be preserved exclusively for peaceful purposes and the good of mankind. That vast environment must not be allowed to become an arena for an arms race. We therefore would have preferred total prohibition of the military uses of the sea-bed except for installations purely

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defensive in nature. In this connexion I should like to refer to the third preambular paragraph of the draft treaty, which states that the treaty "constitutes a step towards the exclusion of the sea-bed, the ocean floor and the subsoil thereof from the arms race ..." and also contains a pledge "to continue negotiations concerning further measures leading to this end". My delegation believes that the treaty would be a significant first step in the achievement of the objective of the third preambular paragraph. We would therefore have liked to see the pledge incorporated in the operative part of the treaty, on the lines of the Swedish proposal (CCD/271). Here I should like also to support the idea put forward by the Polish delegation at our meeting on 18 June, that the Committee should keep on its agenda the question of the demilitarization of the sea-bed and the ocean floor, as formulated in the 1968 report to the General Assembly (CCD/PV.471, para. 9).

74. We have come a long way since the delegations of the Soviet Union and the United States submitted their separate drafts for a sea-bed treaty (ENDC/240 and ENDC/249) in the Committee in 1969. As I said earlier in my statement, substantial progress has been made since then, as a result of the discussions, formal and informal, and the constructive suggestions put forward by delegations both in this Committee and in the General Assembly. My delegation also appreciates the serious efforts made by the co-Chairmen to reach agreement on a draft text for the further consideration of the Committee. The draft treaty is not perfect, as was pointed out by Mr. Leonard in his statement on 23 April (CCD/PV.467, para. 41). I have indicated the areas where my delegation would have preferred to see improvements in the present text. We sincerely hope that the adoption of the treaty will lead to progress towards the objectives I have mentioned in my statement today. Meanwhile, my delegation believes that the draft treaty is in the interests of all the countries of the world and that it should be submitted to the twenty-fifth session of the United Nations General Assembly, in accordance with the Assembly's resolution 2602 F (XXIV) (CCD/275).

The Conference decided to issue the following communiqué:

"The Conference of the Committee on Disarmament today held its 477th plenary meeting in the Palais des Nations, Geneva, under the chairmanship of H.E. Ambassador Hussein Khallaf, representative of the United Arab Republic.

"Statements were made by the representatives of Brazil, Mexico, Morocco and Pakistan.

"The next meeting of the Conference will be held on Tuesday, 14 July 1970, at 10.30 a.m."

The meeting rose at 12.5 p.m.